



Planning Commission

Staff Report

September 9, 2014

AGENDA ITEM 3

GENERAL PLAN AMENDMENT, ZONING AMENDMENT– GPA-14-07, ZA-14-02: CIOLINO – CITY OF MORGAN HILL

RECOMMENDATION

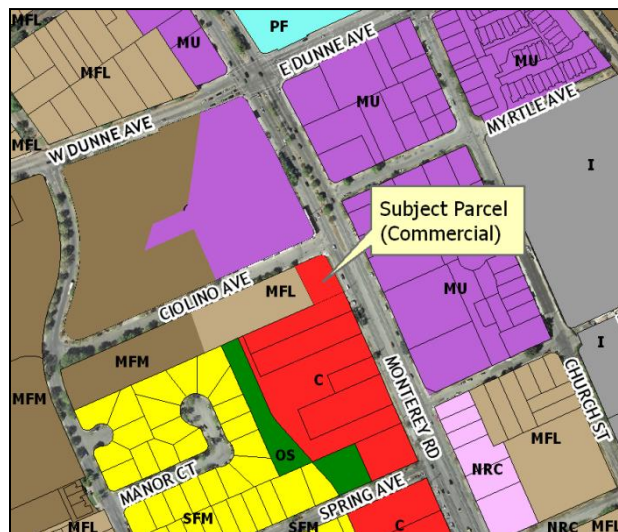
Environmental Assessment:	Recommend Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.
General Plan, GPA-14-07:	Adopt Resolution recommending Council approval.
Zoning, ZA-14-02:	Adopt Resolution recommending Council approval.

SITE INFORMATION

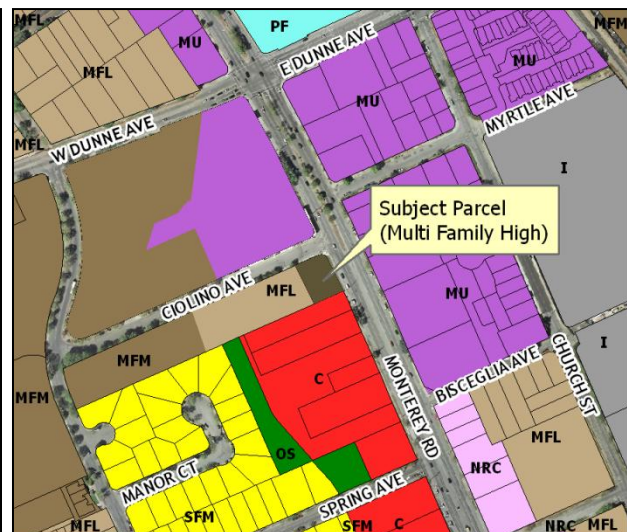
Location: Southwest corner of Monterey Road and Ciolino Avenue (APN 767-09-029).
 Site Area: 0.29 Acres
 Zoning: CG General Commercial District
 General Plan: Commercial

PROJECT DESCRIPTION

A request for a General Plan Amendment to change the General Plan land use designation from Commercial to Multi-Family High, and a Zoning Amendment from the CG General Commercial District to the R-4 High-Density Residential District on a 0.29 acre site, in anticipation of development of an eight (8) to twelve (12) unit affordable housing project.



Existing General Plan Land Use Designations



Proposed General Plan Land Use Designations

BACKGROUND

The proposed General Plan Amendment and associated Zoning Amendment were initiated by the City to support a proposed low-income scattered site affordable housing project with EAH Housing that would provide much needed income restricted rental housing for families that is close to schools, jobs and transportation lines.

In March 2014, staff presented information to the Planning Commission and the City Council regarding several pending General Plan Amendment applications, including the subject request. Consistent with the Planning Commission's recommendation, the City Council directed staff to process the subject General Plan Amendment request ahead of the City's comprehensive General Plan Update process (Morgan Hill 2035).

Site and Surrounding Uses

The subject site, located on the southwest corner of Monterey Road and Ciolino Avenue, contains one unaddressed legal parcel (APN 767-09-029). Surrounding General Plan land use designations include Commercial to the south, Multi-family Medium to the west, and Mixed Use to the north (across Ciolino) and east (across Monterey).

Morgan Hill 2035 and the General Plan Advisory Committee

The General Plan Advisory Committee (GPAC), a Council appointed committee, supplements the community input provided at public workshops and provides feedback and guidance throughout the Morgan Hill 2035 project process. The GPAC has three main functions, all of which are of equal importance:

- To provide feedback and direction to Planning Department staff and project consultants, with the goal of creating plans that are responsive to neighborhood and community goals, conditions, and aspirations.
- To offer input to the Planning Commission and City Council at key project milestones.
- To communicate information about the General Plan Update to other Morgan Hill residents and to encourage their friends, neighbors, and colleagues to participate in the process.

The GPAC is an advisory committee only. Their input is forwarded to the City Council for final action. GPAC meetings are open to the public and always include a time for the GPAC to hear from the community. At their August 28, 2014 meeting, the GPAC reviewed the proposal and unanimously voted to support the project.

ANALYSIS

The proposed General Plan Amendment was analyzed with respect to: 1) the appropriateness of the requested land use designations; 2) consistency with applicable General Plan Goals and Policies; 3) the findings required to amend the Zoning Code; and, 4) conformance with the California Environmental Quality Act (CEQA).

Land Use Designations

The existing Commercial land use designation is intended to allow a wide range of retail businesses, office uses, and professional services. Industrial and residential uses are not permitted in areas with this designation.

The proposed Multi-Family High designation supports residential projects with a density range of between 21 and 40 dwelling units per acre, with special emphasis on transit oriented design (e.g., development intensity, pedestrian orientation and linkages, parking placement and design, development concentrations, etc.). Attached apartments or condominiums are the expected type of development under the Multi-Family High designation.

The type and form of development expected under the Multi-Family High designation would be compatible with the General Plan land use designations of the adjacent properties, which are Multi-Family Medium to the west and Commercial to the south.

General Plan Goals and Policies

The proposed land use designation change from Commercial to Multi-Family High on the subject site is consistent with the following General Plan Goals and Policies:

- Community Development Policies 7d and 7e: Encourage higher residential densities at locations where convenient access and adequate infrastructure is readily available and provide for an adequate supply of multi-family housing, located convenient to shopping, services, and transportation routes.
 - *Analysis: The site is located with convenient access to major transit routes, shopping, and dining within 1,000 feet of the subject site. The site is also located within ½ mile of the Caltrain station.*
- Housing Policy 1b: Provide an adequate supply of land for multi-family housing located convenient to shopping, services, and transportation routes.
 - *Analysis: Approval of the land use amendment would support multi-family housing development located with convenient access to major transit routes, shopping, and dining within 1,000 feet of the subject site.*
- Housing Policy 1d: Encourage a variety of housing types and densities within the community.
 - *Analysis: Approval of the land use amendment would allow for development of a new affordable multi-family rental housing project that would be built at densities and affordability levels called for in the City's General Plan and in the*

Findings Required to Amend Zoning Code

In order to recommend that the City Council amend the City's zoning map, the Planning Commission is required to recommend that that the City Council make the following findings regarding approval/denial of the project:

1. That the proposed amendment is in general conformance with the General Plan.

The City Council can make the finding in that the project meets Community Development Element Policies 7d and 7e, and Housing Element Policies 1b and 1d, and does not have a direct conflict with other Goals or Policies in the General Plan.

2. That the public necessity, convenience and general welfare require the adoption of the proposed amendment.

The City Council can make the finding in that the project would provide sufficient access to amenities that would be consistent with the Goals and Policies of the City's General Plan that strive for the development of housing – especially affordable housing – with convenient access to services and amenities.

3. The proposed amendment does not grant a change in land use from commercial or industrial to a residential land use for property incorporated into the urban service boundary after December 7, 1990 unless it can be determined pursuant to the terms of Section 18.78.070 of the municipal code that the amount of undeveloped, residentially developable land on the same side of Monterey Road as the proposed amendment is insufficient to accommodate five years' worth of residential growth.

The City Council can make the finding in that the project does not include the conversion of property incorporated into the urban service boundary after December 7, 1990.

Environmental Review

An environmental assessment was completed for the proposed project in accordance with the California Environmental Quality Act (CEQA), and potential impacts to the following areas were identified: hydrology, geology, and noise. These potential impacts can be mitigated through mitigation measures listed in the attached Mitigated Negative Declaration. Implementation of these measures would reduce potential impacts to a less than significant level.

The Mitigated Negative Declaration is an informational document. It does not, in of itself, approve or deny a project. Since staff recommends approval of the project, staff also recommends the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

The complete Mitigated Negative Declaration, initial study, and technical appendices are available on the City's website at: <http://www.morgan-hill.ca.gov/index.aspx?nid=1207>

RECOMMENDATION

As discussed in this report, the subject General Plan and Zoning amendment requests are consistent with applicable Goals and Policies of the Morgan Hill General Plan. The anticipated development of the site, in a manner consistent with the proposed land use designation and zoning district, would support a high quality of life and affordability options for current and future residents in the surrounding area.

Staff recommends that the Planning Commission recommend City Council approval of the proposed project.

Attachments:

1. Resolution
2. Mitigated Negative Declaration
3. Mitigation Monitoring and Reporting Program
4. Exhibit A – Proposed Amendment Map

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RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL TO AMEND THE LAND USE DESIGNATION
AND ZONING OF A 0.29 ACRE SITE LOCATED AT THE
SOUTHWEST QUADRANT OF MONTEREY ROAD AND
CIOLINO AVENUE FROM COMMERCIAL TO MULTI
FAMILY HIGH DENSITY RESIDENTIAL(APN 726-09-029)**

WHEREAS, such request was considered by the Planning Commission at their regular meeting of September 9, 2014, at which time the Planning Commission recommended approval of General Plan Amendment application, GPA-14-07: Ciolino – City of Morgan Hill; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process; and

WHEREAS, testimony and materials received at a duly-noticed public hearing.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The proposed General Plan Amendment is consistent with the provisions of the General Plan.

SECTION 2. The proposed zoning amendment is consistent with the provisions of the General Plan.

SECTION 3. The Planning Commission of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the Initial Study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis, and that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are recommended for adoption. The custodian of the documents or other material, which constitute the record, shall be the Community Development Department.

SECTION 4. The Planning Commission hereby recommends City Council approval of the General Plan and Zoning Amendments as shown in the attached Exhibit 'A'.

**PASSED AND ADOPTED THIS 9th DAY OF SEPTEMBER 2014, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

TERESA CRUE, Deputy City Clerk

RENE SPRING, Chair

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COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

17575 Peak Avenue Morgan Hill CA 95037 (408) 778-6480 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

MITIGATED NEGATIVE DECLARATION

I. DESCRIPTION OF PROJECT: CIOLINO GENERAL PLAN AND REZONE

Date: SEPTEMBER 9, 2014

Application No.: GPA-14-07,
ZA-14-02

APN: 767-09-029

Address of Project: SOUTHWEST QUADRANT OF MONTEREY ROAD AND CIOLINO AVENUE. MORGAN HILL, CALIFORNIA 95037

Applicant: CITY OF MORGAN HILL

Project Description: A request for a General Plan Amendment to change the General Plan land use designation from Commerical to Multi-Family High, and a Zoning Amendment from the CG General Commercial District to the R-4 High-Density Residential District on a 0.29 acre site, in anticipation of development of an eight (8) to twelve (12) unit affordable housing project.

II. DETERMINATION

In accordance with the City of Morgan Hill procedures for compliance with the California Environmental Quality Act (CEQA), the City has conducted an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures have been added to the project, and, therefore, a **MITIGATED DECLARATION** is hereby adopted.

III. FINDINGS

Based on the findings of the Initial Study, the proposed project will not have a significant effect on the environment for the following reasons:

1. The project does not have the potential to significantly degrade the quality of the environment, including effects on animals or plants, or to eliminate historic or prehistoric sites.
2. The project will not have any significant adverse impacts on traffic or land use.
3. The project will not generate significant adverse effects on the water, air quality, or increase noise levels substantially.
4. In addition, the project will not:
 - a. Create significant impacts which achieve short-term, to the disadvantage of long-term environmental goals.
 - b. Create impacts which are individually limited, but cumulatively considerable to a significant degree.
 - c. Create environmental effects which will cause significant adverse effects on human beings, either directly or indirectly.

IV. CONDITIONS:

Mitigation Measures

- VI-1. In conjunction with submittal of a site development plan, the applicant shall submit a design-level geotechnical report for the project site to determine the extent of high shrink-swell soils and backfill material on-site. Design-level geotechnical recommendations shall be included in the Geotechnical Report, to ensure that expansive soils and backfill material do not result in adverse effects to people and structures on-site. Any necessary fill removal/replacement operations identified in the geotechnical report, shall be supervised by a registered geotechnical engineer; and a written summary of the operations shall be submitted to the City Engineer.*
- IX-1. Prior to occupancy of the project, the plan(s) shall indicate that the first floor of all structures proposed within areas designated as zone AE on the Federal Emergency Management Agency's Flood Insurance Rate Map shall be a minimum of one foot above the base flood level as shown on the flood map. The applicant shall obtain an elevation certificate and respective FEMA letter of map revision based on fill (LOMR-F) for each building, or group of buildings, prior to occupancy.*

XII-1. In conjunction with submittal of a Site Plan for development, the applicant shall submit to the Morgan Hill Community Development Department a design-level acoustical analysis to confirm that the design of residential units is sufficient to reduce interior average noise levels to 45 dBA Ldn or lower, and to reduce interior maximum instantaneous noise levels to 50dBA Lmax or less in bedrooms, and 55 dBA Lmax in all other habitable rooms. If a site development plan is submitted that includes a courtyard area that could be subject to the 65 DNL standard, the residential building(s) could be oriented to shield the courtyard area from Monterey Road vehicle noise. If interior noise levels are predicted to exceed HUD's/the City of Morgan Hill's General Plan Noise Element interior noise level standards (45 dBA Ldn/ 50 dBA Lmax for bedrooms, and 45 dBA Ldn/55 dBA Lmax for all other habitable rooms), then the analysis shall include mitigation measures sufficient to reduce interior noise levels to at or below HUD's/the City's interior noise standards. Measures may include, but not necessarily be limited to: installation of STC-rated windows, mechanical ventilation (air conditioning) for all residences to allow the occupants to close doors and windows as desired, and solid-core exterior doors with perimeter weather stripping and threshold seals. In addition, a qualified acoustical consultant shall review final site plans, building elevations, and floor plans prior to construction to determine what, if any, additional noise insulation treatments are necessary. Results of the analysis, including the description of any other needed noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.

If a site development plan is submitted that includes a courtyard area that could be subject to the 65 DNL standard, the residential building(s) shall be oriented to shield the courtyard area from Monterey Road vehicle noise.

Standard City Conditions related to Potential Environmental Impacts

The project would be conditioned per Chapter 18.75.110 (B) to comply with the following measures, which "...shall be conclusively deemed to reduce potentially significant impacts on archaeological resources to a less than significant level":

1. An archaeologist shall be present on-site to monitor all ground-disturbing activities. Where historical or archaeological artifacts are found, work in areas where remains or artifacts are found will be restricted or stopped until proper protocols are met, as described below:
 - a. Work at the location of the find will halt immediately within thirty feet of the find. If an archaeologist is not present at the time of the discovery, the applicant shall contact an archaeologist for evaluation of the find to determine whether it qualifies as a unique archaeological resource as defined by this chapter;
 - b. If the find is determined not to be a Unique Archaeological Resource, construction can continue. The archaeologist will prepare a brief informal memo/letter that describes and assesses the significance of the resource, including a discussion of the methods used to determine significance for the find;
 - c. If the find appears significant and to qualify as a unique archaeological resource, the archaeologist will determine if the resource can be avoided and will detail avoidance procedures in a formal memo/letter; and

- d. If the resource cannot be avoided, the archaeologist shall develop within forty-eight hours an action plan to avoid or minimize impacts. The field crew shall not proceed until the action plan is approved by the community development director. The action plan shall be in conformance with California Public Resources Code 21083.2.
2. The following policies and procedures for treatment and disposition of inadvertently discovered human remains or archaeological materials shall apply. If human remains are discovered, it is probable they are the remains of Native Americans,
 - a. If human remains are encountered they shall be treated with dignity and respect as due to them. Discovery of Native American remains is a very sensitive issue and serious concern. Information about such a discovery shall be held in confidence by all project personnel on a need to know basis. The rights of Native Americans to practice ceremonial observances on sites, in labs and around artifacts shall be upheld.
 - b. Remains should not be held by human hands. Surgical gloves should be worn if remains need to be handled.
 - c. Surgical mask should also be worn to prevent exposure to pathogens that may be associated with the remains.
3. In the event that known or suspected Native American remains are encountered or significant historic or archaeological materials are discovered, ground-disturbing activities shall be immediately stopped. Examples of significant historic or archaeological materials include, but are not limited to, concentrations of historic artifacts (e.g., bottles, ceramics) or prehistoric artifacts (chipped chert or obsidian, arrow points, groundstone mortars and pestles), culturally altered ash-stained midden soils associated with pre-contact Native American habitation sites, concentrations of fire-altered rock and/or burned or charred organic materials and historic structure remains such as stone-lined building foundations, wells or privy pits. Ground-disturbing project activities may continue in other areas that are outside the exclusion zone as defined below.
4. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area plus a reasonable buffer zone by the contractor foreman or authorized representative, or party who made the discovery and initiated these protocols, or if on-site at the time of discovery, by the monitoring archaeologist (typically twenty-five to fifty feet for single burial or archaeological find).
5. The exclusion zone shall be secured (e.g., twenty-four hour surveillance) as directed by the city or county if considered prudent to avoid further disturbances.
6. The contractor foreman or authorized representative, or party who made the discovery and initiated these protocols shall be responsible for immediately contacting by telephone the parties listed below to report the find and initiate the consultation process for treatment and disposition:
 - a. The city of Morgan Hill Community Development Director,
 - b. The contractor's point(s) of contact,
 - c. The coroner of the county of Santa Clara (if human remains found),
 - d. The Native American Heritage Commission (NAHC) in Sacramento, and
 - e. The Amah Mutsun Tribal Band.

7. The coroner has two working days to examine the remains after being notified of the discovery. If the remains are Native American, the Coroner has twenty-four hours to notify the NAHC.
8. The NAHC is responsible for identifying and immediately notifying the Most Likely Descendant (MLD) from the Amah Mutsun Tribal Band. (Note: NAHC policy holds that the Native American Monitor will not be designated the MLD.).
9. Within twenty-hour hours of their notification by the NAHC, the MLD will be granted permission to inspect the discovery site if they so choose.
10. Within twenty-four hours of their notification by the NAHC, the MLD may recommend to the City's community development director the recommended means for treating or disposing, with appropriate dignity, the human remains and any associated grave goods. The recommendation may include the scientific removal and non-destructive or destructive analysis of human remains and items associated with Native American burials. Only those osteological analyses or DNA analyses recommended by the Amah Mutsun Tribal Band may be considered and carried out.
11. If the MLD recommendation is rejected by the City of Morgan Hill the parties will attempt to mediate the disagreement with the NAHC. If mediation fails then the remains and all associated grave offerings shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.

Andrew Crabtree
Community Development Director

Date: _____

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City of Morgan Hill Ciolino General Plan Amendment and Rezone Project Mitigation Monitoring Program

– September 2014

The California Environmental Quality Act (CEQA) and CEQA Guidelines require Lead Agencies to adopt a program for monitoring the mitigation measures required to avoid significant environmental impacts of a project. The monitoring program ensures that mitigation measures imposed by the City are completed at the appropriate time in the development process.

The mitigation measures identified in the joint Initial Study / Environmental Assessment for the Ciolino General Plan Amendment and Rezone Project are listed below along with the party responsible for implementation of the mitigation measure; the party responsible for monitoring implementation of the mitigation measure; the milestones for implementation and monitoring; and a sign off that the mitigation measure has been implemented.

MITIGATION MONITORING PROGRAM
Ciolino General Plan Amendment and Rezone Project

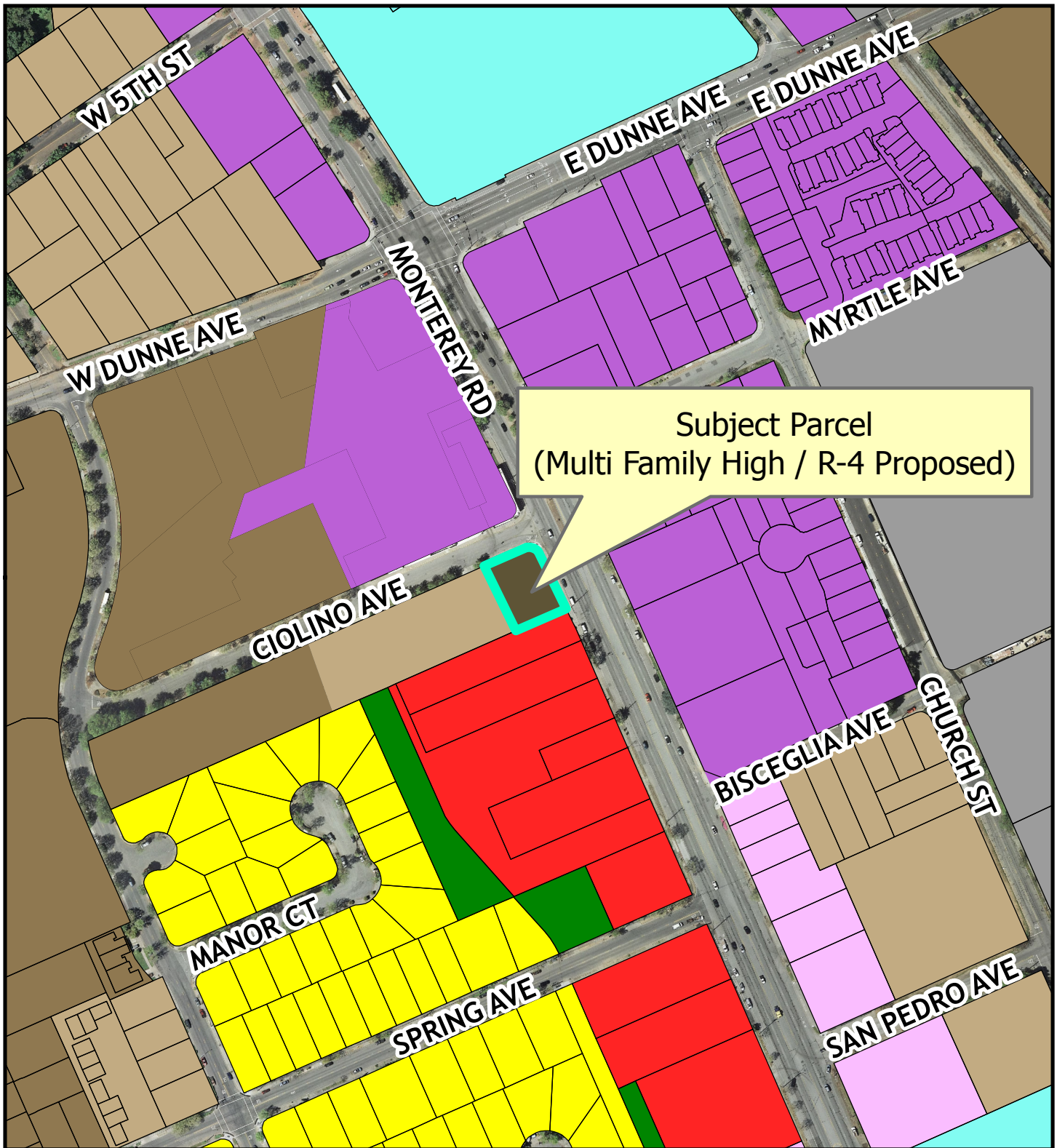
Mitigation Measure		Timing	Monitoring Agency	Sign-Off
<i>VI-1.</i>	<i>In conjunction with submittal of a site development plan, the applicant shall submit a design-level geotechnical report for the project site to determine the extent of high shrink-swell soils and backfill material on-site. Design-level geotechnical recommendations shall be included in the Geotechnical Report, to ensure that expansive soils and backfill material do not result in adverse effects to people and structures on-site. Any necessary fill removal/replacement operations identified in the geotechnical report, shall be supervised by a registered geotechnical engineer; and a written summary of the operations shall be submitted to the City Engineer.</i>	In conjunction with submittal of a Site Plan for development	City Engineer	
<i>IX-1.</i>	<i>Prior to occupancy of the project, the plan(s) shall indicate that the first floor of all structures proposed within areas designated as zone AE on the Federal Emergency Management Agency's Flood Insurance Rate Map shall be a minimum of one foot above the base flood level as shown on the flood map. The applicant shall obtain an elevation certificate and respective FEMA letter of map revision based on fill (LOMR-F) for each building, or group of buildings, prior to occupancy.</i>	Prior to occupancy of the project	Public Works Department	

MITIGATION MONITORING PROGRAM
Ciolino General Plan Amendment and Rezone Project

	Mitigation Measure	Timing	Monitoring Agency	Sign-Off
<i>XII-1.</i>	<i>In conjunction with submittal of a Site Plan for development, the applicant shall submit to the Morgan Hill Community Development Department a design-level acoustical analysis to confirm that the design of residential units is sufficient to reduce interior average noise levels to 45 dBA Ldn or lower, and to reduce interior maximum instantaneous noise levels to 50 dBA Lmax or less in bedrooms, and 55 dBA Lmax in all other habitable rooms. If a site development plan is submitted that includes a courtyard area that could be subject to the 65 DNL standard, the residential building(s) could be oriented to shield the courtyard area from Monterey Road vehicle noise. If interior noise levels are predicted to exceed HUD's/the City of Morgan Hill's General Plan Noise Element interior noise level standards (45 dBA Ldn/ 50 dBA Lmax for bedrooms, and 45 dBA Ldn/55 dBA Lmax for all other habitable rooms), then the analysis shall include mitigation measures sufficient to reduce interior noise levels to at or below HUD's/the City's interior noise standards. Measures may include, but not necessarily be limited to: installation of STC-rated windows, mechanical ventilation (air conditioning) for all residences to allow the occupants to close doors and windows as desired, and solid-core exterior doors with perimeter weather stripping and threshold seals. In addition, a qualified acoustical consultant shall review final site plans, building elevations, and floor plans prior to</i>	In conjunction with submittal of a Site Plan for development	Community Development Department (Planning Division)	

MITIGATION MONITORING PROGRAM
Ciolino General Plan Amendment and Rezone Project

Mitigation Measure	Timing	Monitoring Agency	Sign-Off
<p><i>construction to determine what, if any, additional noise insulation treatments are necessary. Results of the analysis, including the description of any other needed noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.</i></p> <p><i>If a site development plan is submitted that includes a courtyard area that could be subject to the 65 DNL standard, the residential building(s) shall be oriented to shield the courtyard area from Monterey Road vehicle noise.</i></p>			



General Plan Land Uses

■ Commercial	■ Mixed Use
■ Industrial	■ Non-Retail Commercial
■ Multi-Family High	■ Open Space
■ Multi-Family Low	■ Public Facilities
■ Multi-Family Medium	■ Single Family Medium

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EXHIBIT A: GPA-14-07 & ZA-14-02: Ciolino - City of Morgan Hill

Proposed Amendments
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